databases to include arrestees. Among the most well known of these studies was one conducted in Chicago and presented to their state legislature in 2005.

In the study, the city of Chicago researched the criminal histories of eight offenders within their prison system. The study revealed that had DNA been collected when they first were arrested, 60 violent crimes — including 53 murders and rapes — could have been prevented.

"The eight offenders in Chicago accumulated a total of 21 felony arrests before finally being identified in the violent crimes," the study reported. "Only seven of the prior felony arrests were for violent crimes — the remaining two-thirds of arrests were for non-violent felonies."

Illinois now is one of the 26 states collecting arrestee DNA.

Maryland conducted a similar study to determine whether they should pass arrestee legislation. In their study, three individuals were identified and their criminal histories researched. In total, the three men had been charged with 49 crimes. The study determined that if DNA were taken upon their first arrests, 20 of those crimes could have been prevented. They, too, now are collecting arrestee DNA.

When Indiana began looking at arrestee DNA, they studied it not only from a crime prevention angle, but from the perspective of cost savings to its state government.

"More important is the cost of NOT passing this legislation, which would be measured not only in the missed opportunity to save taxpayers money, but also the socioeconomic costs of avoidable human tragedy and victimization," said Dr. Jay Siegel and Susan D. Narveson in their report, Why Arrestee DNA Legislation Can Save Indiana Taxpayers Over $50 Million Per Year. (See more details of this report and other cost considerations on page 48.)

GUARDING THE FOURTH AMENDMENT

But, not everyone thinks the issue is so clear cut. There are concerns about whether including arrestees oversteps the mandate of DNA databases to store DNA profiles of convicted offenders. While some argue collecting DNA is no different than the age-old procedure of taking fingerprints, others say the data included in our DNA is much more extensive and precious. Additionally, there are questions about oversight and the provisions in place to safeguard the databases.

Bill Sharp, attorney for the American Civil Liberties Union of Kentucky, said the ACLU believes those who have been arrested for — but not convicted of — a crime have a "greater right to privacy" than those who have been found guilty of a criminal act.

"The ACLU of Kentucky does not oppose law enforcement's use of DNA technology to investigate criminal activity," Sharp said. "The proper collection and analysis of evidence is within the state's police power and necessary for public safety. We do oppose, however, the state's unfettered authority to collect DNA samples from everyone who is arrested for (but not convicted of) any criminal offense in contravention of the Fourth Amendment.

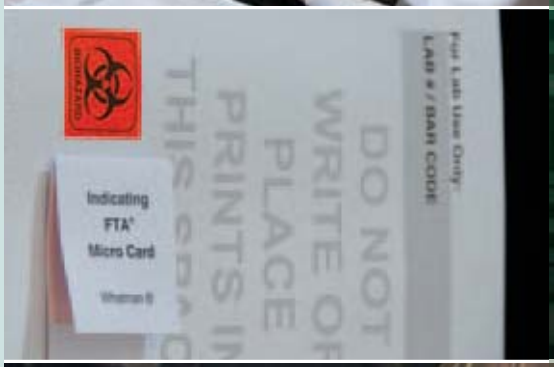
"To the extent specific evidence exists to support a finding of probable cause for the collection of DNA evidence from an individual, the Fourth Amendment's warrant requirement imposes a modest and reasonable limitation on government's ability to obtain that evidence," Sharp continued.

Courts in the 26 states now allowing arrestee DNA collection have not helped to simplify the issue. In his Yale Law School report, "The evolution of DNA Databases: Expansion, Familial Search and the Need for Reform," Dr. Michael Seringhaus wrote that a "Minnesota Court of Appeals struck down a state law that authorized DNA collection from arrestees on Fourth Amendment grounds."

Yet, the following year, the Virginia Court of Appeals upheld DNA collection "on the theory that it is similar to fingerprinting," Seringhaus wrote. In 2009, the U.S. District Court for the Eastern District of California upheld the collection of DNA from individuals who were arrested with probable cause for felony charges.

"In its decision, the court emphasized the importance of a finding of judicial probable cause," Seringhaus wrote, "and

PHOTOS BY JIM ROBERTSON



▶ The series of events that must take place to process DNA samples is extensive and painstaking to ensure the integrity of the evidence. The KSP lab uses several highly-technical machines to complete the task.